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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-107**

13 **RICHARD JOSEPH BREBRICK**
9471 Lake Natoma Drive
14 Orangevale, CA 95662

A C C U S A T I O N

15 **Registered Nurse License No. 534864**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about August 4, 1997, the Board issued Registered Nurse License Number
24 534864 to Richard Joseph Brebrick ("Respondent"). The registered nurse license was in full
25 force and effect at all times relevant to the charges brought herein and will expire on April 11,
26 2011, unless renewed.

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STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

6. California Code of Regulations, title 16, section 1442, states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

7. California Code of Regulations, title 16, section 1443, states:

As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 FACTUAL BACKGROUND

4 9. On February 28, 2006, Respondent was on duty at California State Prison-
5 Sacramento, Sacramento, California. Correctional Officer Rustad telephoned the A Facility
6 Emergency Room and spoke with Respondent, who was assigned to work as triage nurse. Officer
7 Rustad asked permission to bring Inmate Roberson to the ER for evaluation of an injured,
8 possibly fractured hand. Once there, Respondent asked Inmate Roberson, who was in restraints,
9 why he was coming to the ER and told the inmate to sit on the bed so he could examine his hand.
10 The inmate did not comply with Respondent's request and asked Respondent to examine his hand
11 while he remained standing. Respondent advanced toward the inmate in a threatening manner,
12 invading the inmate's personal space and stated to the inmate "I'll knock you out so fast your
13 head will spin". Officer Rustad immediately removed Inmate Roberson from the ER and
14 transferred him to a holding cell. Inmate Roberson's hand was not examined that day nor did
15 Respondent refer Inmate Roberson to any other medical personnel for proper evaluation.

16 FIRST CAUSE FOR DISCIPLINE

17 (Gross Negligence)

18 9. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(1),
19 on the grounds of unprofessional conduct, in that on or about February 28, 2006, while on duty as
20 a registered nurse at California State Prison-Sacramento, Sacramento, California, Respondent
21 committed the following acts that constitute gross negligence as defined in California Code of
22 Regulations, title 16, section 1442.

23 a. Respondent physically threatened Inmate Roberson, who was in restraints at the time,
24 by moving in too close to the inmate, invading his personal space, and stating to the inmate "I'll
25 knock you out so fast your head will spin".

26 b. Respondent failed to refer Inmate Roberson to an appropriate provider who could
27 examine and care for the inmate's hand in a timely manner.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Incompetence)**

3 10. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(1),
4 on the grounds of unprofessional conduct, in that on or about February 28, 2006, while on duty as
5 a registered nurse at California State Prison-Sacramento, Sacramento, California, Respondent
6 committed the following acts that constitute incompetence as defined in California Code of
7 Regulations, title 16, section 1443.

8 a. Respondent physically threatened Inmate Roberson, who was in restraints at the time,
9 by moving in too close to the inmate, invading his personal space, and stating to the inmate "I'll
10 knock you out so fast your head will spin".

11 b. Respondent failed to refer Inmate Roberson to an appropriate provider who could
12 examine and care for the inmate's hand in a timely manner.

13 c. Respondent failed to document Inmate Roberson's medical record to indicate that the
14 patient had been in the ER and what took place during the time he was in the ER for examination,
15 even though no examination was performed.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct)**

18 11. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on
19 the grounds of unprofessional conduct, as more particularly set forth in paragraphs 9 and 10,
20 above.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 534864, issued to Richard
25 Joseph Brebrick;

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1 2. Ordering Richard Joseph Brebrick to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and,

4 3. Taking such other and further action as deemed necessary and proper.
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8 DATED: _____

8/9/10

for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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